

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariana Thomas	Team: Squad #16	CCRB Case #: 202301667	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 02/14/2023 3:05 AM, Tuesday, 02/14/2023 5:23 AM	Location of Incident: 79th Precinct stationhouse	18 Mo. SOL 8/14/2024	Precinct: 79		
Date/Time CV Reported Tue, 02/14/2023 10:50 AM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Fri, 02/24/2023 4:05 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Victor Roopnarine	15175	957104	079 PCT
2. PO Daniel Mucciaccio	04493	966728	079 PCT
3. PO Colwin Benn	04104	972529	079 PCT
4. Officers			
5. SGT Shawn Kitterle	03478	950689	079 PCT
6. SGT Christopher Mcdonald	00320	951980	079 PCT
7. PO Rmit Sharma	05367	970854	PSA9 VIPER3
8. PO Sebastian Villa	06189	973020	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Helen Ramirez	21626	973689	079 PCT
2. PO Austin Morales	18279	968014	079 PCT
3. PO Louilly Taveras	24094	965559	079 PCT
4. PO Christopher Atancuri	27941	968948	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Rmit Sharma	Abuse: Police Officer Rmit Sharma improperly used his body-worn camera.	
B . SGT Shawn Kitterle	Abuse: Sergeant Shawn Kitterle improperly used his body-worn camera.	
C . PO Rmit Sharma	Abuse: Police Officer Rmit Sharma did not process § 87(2)(b) complaint regarding officers.	
D . SGT Shawn Kitterle	Abuse: Sergeant Shawn Kitterle did not process § 87(2)(b) complaint regarding officers.	
E . PO Sebastian Villa	Abuse: Police Officer Sebastian Villa threatened to arrest § 87(2)(b)	
F . PO Rmit Sharma	Force: Police Officer Rmit Sharma used physical force against § 87(2)(b)	
G . PO Sebastian Villa	Force: Police Officer Sebastian Villa used physical force against § 87(2)(b)	
H . PO Colwin Benn	Force: Police Officer Colwin Benn used physical force against § 87(2)(b)	
I . SGT Christopher Mcdonald	Abuse: Sergeant Christopher Mcdonald forcibly removed § 87(2)(b) to the hospital.	

Officer(s)	Allegation	Investigator Recommendation
J . PO Victor Roopnarine	Force: Police Officer Victor Roopnarine used physical force against § 87(2)(b)	
K . Officers	Force: Officers used physical force against § 87(2)(b)	
L . SGT Christopher McDonald	Abuse: Sergeant Christopher McDonald searched § 87(2)(b)	
M . PO Victor Roopnarine	Discourtesy: Police Officer Victor Roopnarine spoke discourteously to § 87(2)(b)	
N . PO Victor Roopnarine	Discourtesy: Police Officer Victor Roopnarine spoke discourteously to § 87(2)(b)	
O . Officers	Abuse: Officers seized § 87(2)(b) property.	
P . SGT Christopher McDonald	Abuse: Sergeant Christopher McDonald failed to provide § 87(2)(b) with a business card.	
Q . SGT Christopher McDonald	Abuse: Sergeant Christopher McDonald threatened to remove § 87(2)(b) to the hospital.	
R . SGT Christopher McDonald	Abuse: Sergeant Christopher McDonald threatened to arrest § 87(2)(b)	
S . PO Daniel Mucciaccio	Abuse: Police Officer Daniel Mucciaccio threatened to arrest § 87(2)(b)	
T . SGT Shawn Kitterle	Abuse: Sergeant Shawn Kitterle threatened to arrest § 87(2)(b)	

Case Summary

On February 14, 2023, § 87(2)(b) filed this complaint with IAB via telephone, which was received by the CCRB on February 24, 2023, under IAB Log #§ 87(2)(b).

On February 14, 2023, at approximately 3:05 a.m., § 87(2)(b) went to the 79th Precinct stationhouse to file a complaint. Police Officer Rmit Sharma and Sergeant Shawn Kitterle, of the 79th Precinct, did not activate their body-worn cameras (“BWC”) and allegedly refused to file § 87(2)(b) complaint (**Allegation A-B: Abuse of Authority, § 87(2)(g)**). **Allegations C-D: Abuse of Authority, § 87(2)(g)** Police Officer Sebastian Villa, of the 79th Precinct, threatened to arrest § 87(2)(b) (**Allegation E: Abuse of Authority, § 87(2)(b)**). § 87(2)(b) PO Sharma, PO Villa, and Police Officer Colwin Benn, of the 79th Precinct, pulled § 87(2)(b) out of the stationhouse (**Allegations F-H: Force, § 87(2)(g)**). Sergeant Christopher McDonald, of the 79th Precinct, forcibly removed § 87(2)(b) to the hospital (**Allegation I: Abuse of Authority, § 87(2)(g)**). The officers handcuffed § 87(2)(b) and PO Roopnarine held § 87(2)(b) legs and shackles down (**Allegation J: Force, § 87(2)(b)**). Officers carried § 87(2)(b) into the stationhouse to wait for an ambulance to arrive and carried him to the ambulance upon its arrival (**Allegation K: Force, § 87(2)(g)**). Sgt. McDonald instructed officers to search § 87(2)(b) (**Allegation L: Abuse of Authority, § 87(2)(g)**). PO Roopnarine used profanity when ordering § 87(2)(b) to stop kicking his legs (**Allegation M: Discourtesy, § 87(2)(g)**). PO Roopnarine told § 87(2)(b) to act like a “grown ass man” (**Allegation N: Discourtesy, § 87(2)(g)**). Officers allegedly seized § 87(2)(b) marijuana and a lighter (**Allegation O: Abuse of Authority, § 87(2)(g)**). Sgt. McDonald failed to provide § 87(2)(b) with a business card (**Allegation P: Abuse of Authority, § 87(2)(g)**).

On February 14, 2023, at approximately 5:23 a.m., § 87(2)(b) returned to the 79th Precinct stationhouse after he was released from the hospital to file a complaint. Sgt. McDonald ordered him to leave and asked § 87(2)(b) if he wanted to go back to the hospital (**Allegation Q: Abuse of Authority, § 87(2)(g)**). Sgt. McDonald, Sgt. Kitterle, and Police Officer Daniel Mucciaccio, of the 79th Precinct, threatened to arrest § 87(2)(b) (**Allegations R-T: Abuse of Authority, § 87(2)(g)**). No arrest or summons resulted from these incidents.

This complaint was originally assigned to Investigator David Wall and on August 22, 2023, was reassigned to Investigator Ariana Thomas.

The investigation received 12 BWC videos (**Board Review 01-12**) and 79th Precinct stationhouse footage from the NYPD Legal Bureau (**Board Review 13-14**). The investigation is not in possession of any other video evidence.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Rmit Sharma improperly used his body-worn camera.

Allegation (B) Abuse of Authority: Sergeant Shawn Kitterle improperly used his body-worn camera.

Allegation (C) Abuse of Authority: Police Officer Rmit Sharma did not process § 87(2)(b) complaint regarding officers.

Allegation (D) Abuse of Authority: Sergeant Shawn Kitterle did not process § 87(2)(b) complaint regarding officers.

§ 87(2)(b) testified that he went to the 79th Precinct stationhouse to file a complaint about an incident involving officers that occurred at a McDonald’s in Brooklyn (**Board Review 15**). § 87(2)(b) entered the stationhouse and approached the front desk, where he asked PO Sharma

(identified via the investigation) to make a complaint. PO Sharma told § 87(2)(b) that he could not file his complaint and that he would need to contact the CCRB. § 87(2)(b) wanted to record the conversation and told the officers to turn on their BWCs. When the officers refused to turn on their BWCs, § 87(2)(b) pulled out his phone and began recording. PO Sharma and Sgt. Kitterle, identified via the investigation, ordered § 87(2)(b) to stop recording and to leave the stationhouse. § 87(2)(b) refused to leave until his complaint was taken by the officers.

PO Sharma testified that § 87(2)(b) arrived at the stationhouse recording on his cellphone and requested to file a complaint against members of the NYPD for an incident that occurred at McDonald's (**Board Review 16**). Per procedure, PO Sharma, the Telephone Switchboard (TS) Operator, notified the Desk Sergeant, Sgt. Kitterle, of § 87(2)(b) request. Though PO Sharma did not remember if Sgt. Kitterle did so, the desk sergeant typically speaks to the individual and then advises the TS Operator on next steps. PO Sharma informed § 87(2)(b) that he could fill out a CCRB complaint report at the stationhouse and via telephone or mail with the CCRB. § 87(2)(b) then clarified that he did not want to file a complaint against members of the NYPD, but instead a CCRB complaint against a security guard at McDonald's, who was not a member of service. § 87(2)(b) told PO Sharma that when he went into McDonald's, he was trying to place an order, and something happened that led the security guard to ask him to leave. NYPD officers responded and told § 87(2)(b) he had to leave. PO Sharma told § 87(2)(b) that they could not take CCRB complaints regarding McDonald's security guards because they are not hired by the NYPD. PO Sharma never told § 87(2)(b) he would need to call the CCRB directly and could not file a complaint against NYPD officers at the stationhouse. PO Sharma did not get his BWC when dealing with § 87(2)(b) due to officer safety. He did not want anything happening to the officers if he went around the desk to grab his BWC. TS Operator's typically are not equipped with BWCs because they are in administrative attire.

Sgt. Kitterle testified that § 87(2)(b) requested to file a criminal complaint report for assault against a security guard at McDonald's who spilled his french fries (**Board Review 17**). § 87(2)(b) showed Sgt. Kitterle cellphone video, which captured the incident and Sgt. Kitterle determined that there was no criminal action taken on the part of the security guard. Sgt. Kitterle informed § 87(2)(b) that there was no criminality, at which point § 87(2)(b) said he wanted to make a criminal complaint against two officers who responded to the incident. Sgt. Kitterle reviewed the cellphone video and the officers' BWC videos, which captured the officers escorting him outside, and determined that there was no criminality on the part of the officers. § 87(2)(b) wanted the officers to be charged with assault, so Sgt. Kitterle tried to explain to him that there was no assault, at which point § 87(2)(b) became irrational and irate, raising his tone of voice. § 87(2)(b) did not say he wanted to file a CCRB complaint against the officers; he wanted them to be charged with assault. Sgt. Kitterle told § 87(2)(b) that he could file a CCRB complaint against the officers, but § 87(2)(b) said he did not want to do that and instead wanted to press charges against the officers. When the interaction began, Sgt. Kitterle did not believe that anything was going to escalate and thought it was a "normal regular interaction" and by the time it escalated, he realized he did not have his BWC on his person. Desk Officers are required to be equipped with a BWC and he did not know why he was not.

PO Sharma and Sgt. Kitterle do not have any BWC of this portion of the incident (**Board Review 18**). All BWC video begins as officers are escorting § 87(2)(b) out of the stationhouse and do not capture him entering the stationhouse and speaking to PO Sharma and Sgt. Kitterle.

A 5:15 a.m. 79th Precinct stationhouse Command Log entry notes that § 87(2)(b) who was "highly irrational, disruptive, and [appeared] to be intoxicated," arrived at the stationhouse to make

a complaint against McDonald's for an incident that occurred four days prior (**Board Review 19**). No additional information is provided.

Officers are required to activate their BWC prior to engaging in any police action. Officers are to record any interactions that escalate to become adversarial or hold evidentiary value. Officers are to activate their BWC as soon as it is feasible and safe to do so after taking necessary action to preserve human health and safety, when an unanticipated or exigent occurrence takes place. Officers performing duty as desk officers, telephone switchboard operator and stationhouse security are required to wear their BWC while performing duty. NYPD Patrol Guide, Procedure 212-123 (**Board Review 20**).

§ 87(2)(b) PO Sharma and Sgt. Kitterle, who were assigned to TS operator and desk officer, respectively, were required to have their BWCs on their person and activate them when the situation became adversarial. § 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Sebastian Villa threatened to arrest § 87(2)(b).

Allegation (F) Force: Police Officer Rmit Sharma used physical force against § 87(2)(b).

Allegation (G) Force: Police Officer Sebastian Villa used physical force against § 87(2)(b).

Allegation (H) Force: Police Officer Colwin Benn used physical force against § 87(2)(b).

Allegation (I) Abuse of Authority: Sergeant Christopher McDonald forcibly removed § 87(2)(b) **to the hospital.**

Allegation (J) Force: Police Officer Victor Roopnarine used physical force against § 87(2)(b).

Allegation (K) Force: Officers used physical force against § 87(2)(b).

Allegation (L) Abuse of Authority: Sergeant Christopher McDonald searched § 87(2)(b).

Allegation (M) Discourtesy: Police Officer Victor Roopnarine spoke discourteously to § 87(2)(b).

Allegation (N) Discourtesy: Police Officer Victor Roopnarine spoke discourteously to § 87(2)(b).

Allegation (O) Abuse of Authority: Officers seized § 87(2)(b) **property.**

Allegation (P) Abuse of Authority: Sergeant Christopher McDonald failed to provide § 87(2)(b) **with a business card.**

§ 87(2)(b) testified that when the officers ordered him to stop recording and leave the stationhouse, he refused. PO Villa (identified via the investigation) approached § 87(2)(b) grabbed him, and attempted to pull him out of the stationhouse. PO Villa's actions drew the attention of at least four officers, who came to restrain § 87(2)(b). The officers then pulled § 87(2)(b) out of the stationhouse, escorted him down the stationhouse steps while still grabbing him, and held him in front of the main entrance. § 87(2)(b) repeatedly told the officers to let him go. While outside the stationhouse, the officers searched § 87(2)(b) pockets, stating that they were looking for weapons. After the officers completed their search, an officer handcuffed him. The officers guided him to the floor, where they placed § 87(2)(b) in leg shackles. § 87(2)(b) was not kicking at the officers, but he was verbally contesting the officers' attempts to

restrain him. The officers then called for an ambulance. The officers lifted § 87(2)(b) off the ground and returned him to the 79th Precinct stationhouse. When the officers lifted him off the ground, one of the officers, PO Roopnarine, identified via the investigation, grabbed § 87(2)(b) by his leg shackles. The officers sat § 87(2)(b) down on a bench in the stationhouse vestibule, at which point PO Roopnarine released § 87(2)(b) leg shackles. When EMS arrived, § 87(2)(b) told them he did not want to go to the hospital. The officers told the EMTs that § 87(2)(b) was acting belligerent. The officers then lifted § 87(2)(b) from the vestibule chair and carried him to the ambulance stretcher. PO Roopnarine and PO Mucciaccio rode with § 87(2)(b) in the ambulance to § 87(2)(b). § 87(2)(b) was held at the § 87(2)(b) for approximately 10 minutes before medical staff decided to release him. § 87(2)(b) later retrieved his bicycle at the stationhouse, but not his marijuana or lighter. § 87(2)(b) bicycle was vouchered, but the marijuana and lighter were not.

In PO Benn's BWC video (**Board Review 01**) at 00:36, PO Benn, PO Villa, and PO Sharma approach § 87(2)(b) who stands near the front entrance of the stationhouse. At 00:51, PO Sharma grabs § 87(2)(b) right arm and PO Villa grabs his left. § 87(2)(b) remains in place and appears to yell at the officers. At 01:00, § 87(2)(b) asks the officers to let go of him. PO Villa says, "No. You're gonna be arrested." § 87(2)(b) appears to drop his body weight, as the officers maintain their grip on his arms. PO Colwin and PO Sharma pull § 87(2)(b) towards the entrance to the stationhouse, as PO Villa again tells him he is going to be arrested. At 01:06, § 87(2)(b) says, "I'm here to make a complaint." The officers pull § 87(2)(b) out of the stationhouse by his arms as he tells them to let go. At 01:20, PO Villa tells § 87(2)(b) "Come back and you're gonna be arrested." § 87(2)(b) places his chest against PO Villa's and says, "Stop fucking touching me." PO Villa again tells § 87(2)(b) "You're gonna be arrested." At 01:38, the officers handcuff § 87(2)(b) and sit him on the ground. At 02:17, § 87(2)(b) asks the officers to get him off the floor and they stand him up. At 02:23, the officers tell § 87(2)(b) they are "calling [him] a bus." § 87(2)(b) asks, "For what? Making a complaint?" At 02:48, Sgt. McDonald tells the officers, "Make sure he doesn't have any weapons or anything on him." Four officers then search § 87(2)(b) pockets as he bends forward. The officers walk § 87(2)(b) forward and towards a metal barricade. At 03:34, PO Roopnarine tells § 87(2)(b) to relax as § 87(2)(b) yells for the officers to get off him while officers hold onto his arms. At 04:00, the officers appear to pull § 87(2)(b) to the ground and sit him upright, with his legs kicked out. At 4:03, it appears § 87(2)(b) kicks his right leg towards PO Roopnarine. At 04:08, PO Roopnarine kneels on § 87(2)(b) thighs and § 87(2)(b) yells for him to get off. PO Roopnarine tells him to stop kicking and relax. At 04:36, § 87(2)(b) appears to kick the officers' legs as he is on the ground. At 04:42, PO Roopnarine says, "Relax your fucking self. Put the fucking shackles on." At 04:50, the sound of restraints is heard. At 05:20, § 87(2)(b) yells for the officers to stop kneeling on his foot, as he has restraints on. The officers order § 87(2)(b) to stop. § 87(2)(b) kicks his legs out. At 05:47, PO Sharma holds § 87(2)(b) right ankle and PO Villa holds his left and asks § 87(2)(b) if he will walk. § 87(2)(b) says he will not. The officers carry § 87(2)(b) into the vestibule area of the stationhouse. § 87(2)(b) asks the officers to carry him properly and says that they are hurting him. At 06:07, PO Roopnarine says, "Well, if you walk like a grown ass man." At 06:12, PO Roopnarine tells § 87(2)(b) "Stop fucking kicking," twice as § 87(2)(b) kicks his legs out while he is seated on a chair. § 87(2)(b) yells at the officers. At 06:28, § 87(2)(b) tells PO Roopnarine, who holds § 87(2)(b) feet as he kicks, that he is grabbing his ankles again and PO Roopnarine says, "Yeah, cause you won't fucking listen." § 87(2)(b) tells the officers they are hurting him and are not listening. At 06:40, PO Roopnarine tells § 87(2)(b) "Then act like a man." § 87(2)(b) yells for the officers to let go of the shackles and the officers say they will when he stops kicking.

What follows is more clearly captured in Sgt. McDonald's BWC video (**Board Review 02**), where at 07:50, § 87(2)(b) continues to yell for the officers to let go of his shackles as he jerks his body around. The officers tell him he keeps kicking. At 08:22, PO Roopnarine tells § 87(2)(b) "If you keep fucking kicking, I'm gonna grab that shit again." From 08:23 to 17:19, the officers and § 87(2)(b) wait for the ambulance to arrive. At 17:20 EMTs arrive, and Sgt. McDonald tells them that § 87(2)(b) was acting erratic in the stationhouse, so he asked him to leave, but § 87(2)(b) refused and tried fighting the officers by kicking, screaming and spitting. The EMTs agree to take § 87(2)(b) to the hospital. § 87(2)(b) asks to speak to the EMTs and refuses to get up and walk to the ambulance. At 19:00, Sgt. McDonald says, "Just put him in the bus." The officers lift § 87(2)(b) and carry him to the ambulance. At 19:45, the officers place § 87(2)(b) on a stretcher. Sgt. McDonald instructs PO Roopnarine and PO Mucciaccio to accompany § 87(2)(b) to the hospital. It is unclear from the video if § 87(2)(b) spits at any officers.

In the 79th Precinct stationhouse footage entitled "1st FL-Main Entrance" (**Board Review 13**), at 22:36, § 87(2)(b) enters the stationhouse and appears to be speaking to someone who is behind the TS desk who is not captured. At 28:20, § 87(2)(b) reaches his phone over the glass partition at the TS desk, such that the screen faces away from § 87(2)(b) apparently showing an officer something on the screen. At 31:15, § 87(2)(b) phone screen is visible and shows his camera app is open and that he is apparently filming the officers. § 87(2)(b) remains holding his phone up until 35:48 when he puts it down and officers approach him. The remainder of the video is consistent with the BWC footage.

Sgt. McDonald testified that § 87(2)(b) entered the 79th Precinct stationhouse talking about french fries, stating that he wanted to file a complaint, and recording the interior of the stationhouse on his cellphone (**Board Review 21**). Sgt. McDonald told § 87(2)(b) that he could not record inside a police facility and that if he refused to stop recording, the officers would ask him to leave, and if he refused to leave, they would arrest him for trespassing. § 87(2)(b) refused to stop recording and began acting irate by screaming and demanding to stay and record inside the stationhouse. As § 87(2)(b) persisted in his refusal, Sgt. McDonald instructed the officers to remove § 87(2)(b) from the stationhouse and escort him outside. As the officers did so, § 87(2)(b) made himself stiff and kept his legs straight out. Outside, § 87(2)(b) became even more irate and appeared a danger to himself and the officers, so Sgt. McDonald requested an ambulance for him. § 87(2)(b) was screaming and kicking. Sgt. McDonald did not know if he had a mental condition or was going to become engaged in a violent altercation with the officers. § 87(2)(b) screaming, body language, and that he was holding his fist clenched at his sides suggested that things might escalate into a violent interaction. Sgt. McDonald did not recall if § 87(2)(b) was making any threats. For everyone's safety, they handcuffed § 87(2)(b) so that he could be medically evaluated. Outside, Sgt. McDonald instructed the officers to search § 87(2)(b) and his backpack to make sure he did not have any weapons for his, the officers', and the medical personnel's safety. Sgt. McDonald did not have any specific indication or make any observations that led him to believe § 87(2)(b) was armed, but when the officers take anyone into custody, they check them for weapons. He learned this procedure from the NYPD Patrol Guide. Sgt. McDonald did not offer § 87(2)(b) a business card because he did not take enforcement action and § 87(2)(b) did not request one. Once in handcuffs, § 87(2)(b) was moving around, spitting at the officers, and pulling away from them. The officers turned him around and away from them, positioning him against a metal barricade to secure him. § 87(2)(b) pushed against the metal barricade and spat at the officers. Sgt. McDonald instructed the officers to sit § 87(2)(b) on the ground to limit his movement and the potential for him to injure himself or others. Once on the ground, § 87(2)(b) was kicking the officers and moving around. Officers placed their hands on his shoulders and held his legs down to prevent him from kicking.

Given his movements, the officers placed shackles on § 87(2)(b). After, § 87(2)(b) still continued moving his body and legs. Sgt. McDonald instructed the officers to bring § 87(2)(b) inside the vestibule to wait for the ambulance because he wanted him out of public view for § 87(2)(b) safety and privacy. § 87(2)(b) resisted going inside the stationhouse and would not go willingly, so the officers picked him up and carried him inside. § 87(2)(b) bike had to be safeguarded at the stationhouse and it was vouchered. No other belongings were taken or vouchered.

PO Villa testified that due to his disorderly behavior, officers ordered § 87(2)(b) to leave multiple times and he refused (**Board Review 22**). PO Villa grabbed § 87(2)(b) arm and told him, “You gotta go, bro, you’re gonna be arrested if you don’t leave,” because the officers ordered him to leave the stationhouse and he refused to comply with their commands, so he was trespassing on police property. § 87(2)(b) shimmied his upper body to get PO Villa off him. PO Villa grabbed him by the arm again and he and PO Sharma walked him outside. Instead of walking, § 87(2)(b) put his feet out, leaned back and resisted walking on his own. Once outside, § 87(2)(b) began throwing kicks everywhere, so an officer got leg shackles from the stationhouse. The officers asked § 87(2)(b) to get up and walk back inside the stationhouse while he was on the floor and § 87(2)(b) said, “No, I’m not gonna walk,” so PO Villa grabbed his leg shackles to assist the officers in guiding § 87(2)(b) into the stationhouse. PO Villa knew that the officers had § 87(2)(b) bicycle at the stationhouse, which they returned to him. He did not know what other property, if any, was at the stationhouse, as he did not prepare any vouchers or handle § 87(2)(b) property.

PO Mucciaccio testified that he and PO Roopnarine were patrolling when they drove by the stationhouse and saw officers struggling to handcuff § 87(2)(b) (**Board Review 23**). § 87(2)(b) was flailing his arms, kicking, spitting, and cursing, which indicated to PO Mucciaccio that § 87(2)(b) might be mentally unstable. To assist, PO Mucciaccio placed his hand on § 87(2)(b) shoulder and ordered § 87(2)(b) to calm down and to put his hands behind his back. PO Mucciaccio went inside the stationhouse to get leg shackles to overcome § 87(2)(b) kicking and resistance. The officers picked § 87(2)(b) up off the ground and carried him to a chair in the vestibule because he refused to walk on his own. PO Mucciaccio did not remember what physical contact he made with § 87(2)(b) but he knew that he assisted the other officers in getting § 87(2)(b) off the ground. The officers carried § 87(2)(b) to the ambulance because § 87(2)(b) refused to get up and walk himself. PO Mucciaccio took one of § 87(2)(b) arms and assisted in carrying him out, as § 87(2)(b) was cursing and kicking. Nothing was seized from § 87(2)(b) besides his bicycle, which was vouchered and later returned to him.

PO Roopnarine testified that when he went over to assist, § 87(2)(b) began to spit in his face, yell, and curse (**Board Review 24**). PO Roopnarine was directly in front of him, so he put his hands on § 87(2)(b) shoulders and ordered him to stop. After the officers handcuffed § 87(2)(b) he was still kicking PO Roopnarine in his legs, shins, and stomach. At first, PO Roopnarine told § 87(2)(b) “Stop kicking. Stop kicking.” § 87(2)(b) continued kicking, at which point PO Roopnarine told him to “Stop fucking kicking.” PO Roopnarine told § 87(2)(b) “Relax your fucking self,” because § 87(2)(b) was constantly kicking at PO Roopnarine, and it started to hurt. After telling him to stop kicking him multiple times, he used the word fuck. It did not seem like § 87(2)(b) was understanding anything, so he wanted to use a more assertive tone. PO Roopnarine saw PO Mucciaccio enter the stationhouse and return with a pair of leg shackles and yelled at PO Mucciaccio to, “Put the fucking leg shackles on.” This was not directed at § 87(2)(b). Once § 87(2)(b) was placed in the leg shackles, he continued to scream, kick, and spit, so PO Roopnarine placed his foot on the chain in between the shackles to prevent § 87(2)(b).

§ 87(2)(b) from kicking up and injuring the officers with the shackles. § 87(2)(b) refused to walk inside the vestibule to wait for the ambulance, so the officers picked him up and carried him inside, where he continued to kick, spit, and curse. The officers lifted § 87(2)(b) by his legs and arms and placed him on a chair. § 87(2)(b) was still kicking, yelling, and screaming. PO Roopnarine said, “Cause you keep fucking kicking. I’m gonna grab that shit again,” because he would have to grab the shackles if § 87(2)(b) kept kicking so that he did not harm himself or the officers by kicking them. PO Roopnarine ordered him to stop. He did not, so PO Roopnarine raised his tone and told him to stop fucking kicking. PO Roopnarine acknowledged telling § 87(2)(b) to “act like a grown ass man.” PO Roopnarine believed that § 87(2)(b) was acting like a child having a tantrum in that he was kicking, screaming, and cursing. PO Roopnarine told § 87(2)(b) to act like a man, intending it to mean for him to “grow up.” This situation was violent and stressful due to § 87(2)(b) behavior and resistance. PO Roopnarine did not seize any property from § 87(2)(b).

The AIDED report (**Board Review 29**), prepared by PO Mucciaccio notes that § 87(2)(b) was acting irate and asked to leave the stationhouse and that once he was outside, he continued to act irate and spat and kicked in the direction of officers.

Members of the public are not allowed to photograph and/or record police activity within Department facilities. Members of the service may order any member of the public who is photographing or recording within Department facilities to stop such activity. If such person refuses to stop, they should be ordered to leave the premises. If such a person refuses to leave the premises, members of the service may take proper enforcement action under the trespass statutes. NYPD Administrative Guide, Procedure 304-21 (**Board Review 25**).

A person is guilty of trespass (a violation) when they knowingly enter or remain unlawfully in or upon premises (**Board Review 26**).

It is undisputed that § 87(2)(b) recorded inside the stationhouse and refused to leave. Per the Administrative Guide, members of the public are not permitted to record police activity within Department facilities. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Officers may use physical force if it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. Officers shall not use any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape or to overcome active physical resistance or assault. NYPD Patrol Guide, Procedure 221-01 (**Board Review 27**).

The BWC video confirms that § 87(2)(b) physically resisted the officers’ attempts to remove him from the stationhouse by stiffening his body, dropping his weight, and refusing to walk forward on his own. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

An emotionally disturbed person (“EDP”) as someone who appeared to be mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably

believes is likely to result in serious injury to themselves or others. An officer must take into protective custody and have removed to the hospital in an ambulance, any person who appears to be mentally ill or emotionally disturbed because the person is conducting themselves in a manner likely to result in serious injury to themselves or others. NYPD Patrol Guide, Procedure 221-13 (**Board Review 28**).

It is undisputed that § 87(2)(b) did not want to be removed to the hospital. Additionally, BWC video confirms that while § 87(2)(b) had previously physically resisted leaving the stationhouse by tensing his body and refusing to move on his own, there was no indication that § 87(2)(b) was any danger to himself or others when Sgt. McDonald called for an ambulance, as § 87(2)(b) was solely asking to file his complaint. The actions that Sgt. McDonald testified led him to believe § 87(2)(b) was an EDP began after Sgt. McDonald called for an ambulance and the officers informed § 87(2)(b) that he would be going to the hospital. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

BWC video confirms that after officers handcuffed § 87(2)(b) he began kicking officers, and that after officers placed leg shackles on § 87(2)(b) he continued kicking. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Furthermore, the video shows that § 87(2)(b) refused to walk back inside the stationhouse to wait for the ambulance or to walk to the ambulance once it arrived, despite the officers' commands for him to do so. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Officers must maintain a higher standard of integrity than is generally expected of others and must render their services with courtesy and civility. NYPD Patrol Guide, Procedure 200-02 (**Board Review 34**).

Discourteous language may be excusable when an officer is speaking in the context of a dynamic situation over which he is still attempting to gain control. DCT Case Number 2015-15012 (**Board Review 30**).

§ 87(2)(b) the BWC footage captures § 87(2)(b) kicking his legs after the officers placed him in handcuffs and leg shackles. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

PO Roopnarine telling § 87(2)(b) to "stop fucking kicking," and "relax your fucking self," § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

While PO Roopnarine testified that he told § 87(2)(b) to "act like a grown ass man," because he believed that § 87(2)(b) was acting like a child and needed to grow up, per the Patrol Guide, officers are held to a higher standard of integrity than civilians § 87(2)(g)

§ 87(2)(b)

§ 87(2)(g)

When an EDP has been restrained, officers are to “remove property that is dangerous to life or will facilitate escape.” NYPD Patrol Guide, Procedure 221-13 (**Board Review 28**).

Officers can frisk an individual if they have reasonable suspicion that the individual has a weapon. Officers may only enter the interior portions of a person’s clothing or personal property if they felt an object that they reasonably suspect is a weapon or dangerous instrument for the purpose of removing the object. People v. De Bour, 40 N.Y. 2d 210 (**Board Review 31**).

Sgt. McDonald testified that he did not have any indication that § 87(2)(b) had any weapons on his person prior to instructing the officers to search him. § 87(2)(g)

Officers are required to offer a business card upon the conclusion of law enforcement activities, including searches of persons or property, except in cases when a summons is issued, or an arrest is made. NYPD Administrative Guide, Procedure 204-11 (**Board Review 32**).

As officers are required to provide their business cards at the conclusion of a search of person, and Sgt. McDonald, who instructed the officers to search § 87(2)(b) failed to do so, § 87(2)(g)

§ 87(2)(g)

Allegation (Q) Abuse of Authority: Sergeant Christopher McDonald threatened to remove § 87(2)(b) to the hospital.

Allegation (R) Abuse of Authority: Sergeant Christopher McDonald threatened to arrest

§ 87(2)(b)

Allegation (S) Abuse of Authority: Police Officer Daniel Mucciaccio threatened to arrest

§ 87(2)(b)

Allegation (T) Abuse of Authority: Sergeant Shawn Kitterle threatened to arrest § 87(2)(b).

§ 87(2)(b) testified that he returned to the 79th Precinct stationhouse to retrieve his bicycle and property. After retrieving his property, § 87(2)(b) made his complaint about the treatment he received earlier that day and left the stationhouse.

In BWC for PO Sharma (**Board Review 08**), at 00:49, PO Sharma brings § 87(2)(b) who stands behind the TS window, his bicycle. § 87(2)(b) holds his phone just below his chest, such that it faces the officers. At 01:00, Sgt. McDonald says that § 87(2)(b) cannot record inside the stationhouse. § 87(2)(b) says that is not a law. Sgt. McDonald points to a sign that says members of the public are prohibited from recording. At 01:15, Sgt. McDonald tells § 87(2)(b) “You gotta leave right now. If you don’t leave, you’re gonna be trespassing.” Sgt. McDonald tells § 87(2)(b) he needs to stop recording or he needs to leave the precinct. § 87(2)(b) says he would like to make a complaint and Sgt. McDonald says he can. § 87(2)(b) argues with Sgt. McDonald that civilians have the right to record inside the stationhouse. At 02:22, Sgt. McDonald tells § 87(2)(b) he needs to leave the stationhouse. At 02:40, an officer hands § 87(2)(b) a

piece of paper. § 87(2)(b) says he has a disability and needs the officers to write it out for him and forward it to CCRB. Sgt. McDonald says the officers are not allowed to fill it out and tells officers, "Give him the phone number to call." § 87(2)(b) reiterates how the officers need to file his complaint. At 03:00, Sgt. McDonald tells § 87(2)(b) he needs to take a seat and says, "You're gonna go back to the hospital?" At 03:10, Sgt. McDonald orders § 87(2)(b) to leave the stationhouse and instructs PO Sharma, PO Mucciaccio, PO Roopnarine, and PO Villa to escort him out. At 03:15, § 87(2)(b) says he is not going anywhere. Sgt. McDonald says, "Well, then you're gonna be arrested." § 87(2)(b) says he would like to make his complaint and Sgt. McDonald says, "Then you can make it from the cells." PO Mucciaccio orders § 87(2)(b) to leave the stationhouse. § 87(2)(b) says he is trying to file a complaint. At 04:20, PO Mucciaccio says, "Right now, you're not allowed to make your complaint... We're asking you to leave. You're being disruptive and right now you're trespassing." At 04:50, § 87(2)(b) tells the officers they need to fill out the form, as other precincts have. The officers say they cannot and order § 87(2)(b) to leave. He refuses. The officers hand § 87(2)(b) a complaint form and order him to leave. At 05:58, § 87(2)(b) asks if he can make his complaint. PO Mucciaccio tells him, "You can make it. Otherwise, you are going to be subject to arrest for trespassing, so it's one or the other. You can leave right now and call the number to make the complaint, or you can get arrested for trespassing. It's gonna be one or the other." At 06:15, PO Mucciaccio asks § 87(2)(b) "Are you gonna leave right now on your own will or are you gonna be arrested for trespassing and spend the day in the cells?" At 06:30, § 87(2)(b) says he is allowed to file the complaint at the stationhouse. The officers offer to give § 87(2)(b) a phone number. § 87(2)(b) says he wants to fill it out in person. At 07:23, PO Roopnarine tells § 87(2)(b) he needs to fill out the form in his own handwriting. § 87(2)(b) says he has a disability and cannot write it. At 08:30, Sgt. Kitterle tells § 87(2)(b) "Listen, you are going to be placed under arrest for trespassing." At 08:48, Sgt. Kitterle says, "Do you want to be placed under arrest, or do you want to go on your way? Fill out the form and drop it off." Sgt. Kitterle tells § 87(2)(b) there are many different precincts he can go to. At 09:50, Sgt. McDonald tells § 87(2)(b) that an officer will sit with him and fill out the complaint. § 87(2)(b) says thank you. At 10:50, Sgt. McDonald instructs PO Sharma to take § 87(2)(b) complaint and gives him instructions on how to do so. From 11:55 to 50:28, PO Sharma prepares a civilian complaint form with § 87(2)(b) and gives § 87(2)(b) a copy of it.

The stationhouse video is consistent with the BWC video (**Board Review 14**).

Sgt. McDonald testified that § 87(2)(b) returned to the stationhouse and began recording, as he held his hand over the area where the TS operator sits. § 87(2)(b) requested to file a complaint again. § 87(2)(b) was still aggravated and irate, in that he was screaming and demanding that he could record inside the stationhouse. Sgt. McDonald ordered § 87(2)(b) to stop recording and said if he refused to do so the officers would ask him to leave and that if he refused, he could be arrested for trespassing. Sgt. McDonald kept asking § 87(2)(b) to take a seat to try to calm him down, so they could do what he requested. § 87(2)(b) persisted in his refusal to listen to the officers' commands and was acting irate, causing a scene and being disruptive to the functions inside the stationhouse so he told § 87(2)(b) he had to leave. He did not refuse to take his report. Civilians are allowed to file complaints inside the stationhouse. However, Sgt. McDonald believed that § 87(2)(b) would not have trusted the officers or accused them of writing false information. Sgt. McDonald told § 87(2)(b) he was going to go back to the hospital because § 87(2)(b) was still acting irate, was not understanding what the officers were doing, and he did not think that § 87(2)(b) made any progress at the hospital. Sgt. McDonald spoke to Sgt. Kitterle and they made the collective decision to allow him to file his complaint at the stationhouse. Since the officers were able to calm § 87(2)(b) down, they allowed him to file his complaint at the stationhouse.

Sgt. Kitterle testified that he informed § 87(2)(b) that he could be placed under arrest for trespassing after the officers had ordered him to leave the stationhouse. Sgt. Kitterle wanted to let him know the legal consequences of his actions, that he could be arrested for trespassing. The officers were only offering for § 87(2)(b) to file his complaint elsewhere because he did not seem happy with them.

PO Mucciaccio testified that he reiterated what Sgt. McDonald said to § 87(2)(b) telling § 87(2)(b) that he needed to leave per Sgt. McDonald's lawful order and if he refused, he could be arrested for trespassing.

Members of the public are not allowed to photograph and/or record police activity within Department facilities. Members of the service may order any member of the public who is photographing or recording within Department facilities to stop such activity. If such person refuses to stop, they should be ordered to leave the premises. If such a person refuses to leave the premises, members of the service may take proper enforcement action under the trespass statutes. NYPD Administrative Guide, Procedure 304-21 (**Board Review 25**).

A person is guilty of trespass (a violation) when they knowingly enter or remain unlawfully in or upon premises (**Board Review 26**).

It is undisputed that § 87(2)(b) recorded inside the stationhouse and refused to leave. Per the Administrative Guide, members of the public are not permitted to record police activity within Department facilities. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

An emotionally disturbed person ("EDP") is someone who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably believes is likely to result in serious injury to themselves or others. An officer must take into protective custody and have removed to the hospital in an ambulance any person who appears to be mentally ill or emotionally disturbed if the person is conducting themselves in a manner likely to result in serious injury to themselves or others. NYPD Patrol Guide, Procedure 221-13 (**Board Review 28**).

The BWC video confirms that § 87(2)(b) was repeatedly asking the officers to file his complaint and insisting that he had a right to record inside the stationhouse. § 87(2)(b)

§ 87(2)(b)

there was no indication that § 87(2)(b) was a danger to himself or others when Sgt. McDonald asked § 87(2)(b) if he wanted to go back to the hospital. § 87(2)(b) refusal to leave the stationhouse until his complaint was taken did not constitute the behavior of someone who appears to be deranged or mentally ill. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)

[illegible]

[illegible]

- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- Sgt. McDonald has been a member of service for 11 years and has been a subject in six CCRB complaints and 15 allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
- PO Sharma has been a member of service for two years and this is the first CCRB complaint to which he has been a subject.
- PO Villa has been a member of service for two years and has been a subject in six CCRB complaints and 21 allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
- PO Roopnarine has been a member of service for nine years and has been a subject in four CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
- PO Mucciaccio has been a member of service for five years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g) [REDACTED]

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On April 23, 2024, a Notice of Claim inquiry was sent to the New York City Office of the Comptroller (**Board Review 36**). The results will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad No.: 16

Investigator:	<u>Ariana Thomas</u>	<u>Inv. Ariana Thomas</u>	<u>04/30/2024</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Patrick Yu</u>	<u>IM Patrick Yu</u>	<u>05/08/2024</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date